

FILED

1 Ronald Yandell / 5045824

2 651 "I" STREET

3 SACRAMENTO, CA. 95814

AUG 30 2021

4 IN PRO-SE

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY

DEPUTY CLERK

5
6 UNITED STATES DISTRICT COURT

7 FOR THE EASTERN DISTRICT OF CALIFORNIA

8
9 Ronald Yandell
10 PLAINTIFF

NO. 2:21-CV-00469-JAM-AC

11 V.

OBJECTIONS TO FINDINGS
AND RECOMMENDATIONS

12 DONALD WASHINGTON, ET AL.
13 DEFENDANTS

14
15 OBJECTIONS TO MAGISTRATE JUDGE'S FINDINGS AND
16 RECOMMENDATIONS.

17
18 A. CLAIM ONE

19 PLAINTIFF HAS IDENTIFIED THE JAIL'S FAILURE TO
20 FOLLOW THE PROVISIONS OF THE MAYS DECREE. SEE:
21 SECOND AMENDED COMPLAINT PAGE 17.

22 THE JAIL IS NOT ABOVE PRECEDENT CASE LAW
23 AND HAS VIOLATED PLAINTIFF'S FOURTEENTH AMENDMENT
24 RIGHTS TO DUE PROCESS UNDER THE UNITED STATES
25 CONSTITUTION.

26 INMATES THAT COMMIT SERIOUS RULES VIOLATIONS
27 ARE PLACED IN T-SEP FOR PUNISHMENT, THE SAME
28 EXACT T-SEP PLAINTIFF HAS BEEN HOUSED IN FOR

1 twenty FIVE MONTHS, SO THE COURT SHOULD NOT MAKE
 2 A DISTINCTION BETWEEN INMATES UNDER THE SAME
 3 RESTRICTIVE CONDITIONS. SEE: ASHEROFF V. TQBAL,
 4 129 S.Ct. 1937 (2009). SURPRENANT V. RIVAS, 424
 5 F.3d 5, 7 (1st Cir. 2005) (HOLDING DETAINEES HAVE A
 6 LIBERTY INTEREST IN AVOIDING PUNISHMENT); HOLLY
 7 V. WOOLFOLK, 415 F.3d 678, 679-80 (7th Cir. 2005)
 8 (NOTING HOLDINGS THAT "ANY NONTRIVIAL PUNISHMENT
 9 OF A PERSON NOT YET CONVICTED IS A SUFFICIENT
 10 DEPRIVATION OF LIBERTY TO ENTITLE HIM TO DUE PROCESS
 11 OF LAW").

12 ONE FEDERAL CIRCUIT COURT HAS SAID: "ALTHOUGH
 13 PRE-TRIAL DETAINEES DO NOT HAVE A LIBERTY IN BEING
 14 CONFINED IN THE GENERAL PRISON POPULATION THEY DO
 15 HAVE A LIBERTY INTEREST IN NOT BEING DETAINED
 16 INDEFINITELY IN THE SHU WITHOUT EXPLANATION OR
 17 REVIEW OF THEIR CONFINEMENT" BECAUSE "THE PRO-
 18 TECTIONS DUE TO SENTENCED INMATES PROVIDE A FLOOR
 19 FOR WHAT PRE-TRIAL DETAINEES MAY EXPECT". SEE:
 20 STEVENSON V. CARROL, 495 F.3d 62, 69 (3rd Cir. 2007).
 21 CERT. DENIED, 128 S.Ct. 1223 (2008). "IT ADDED THAT
 22 DETAINEES ARE ENTITLED TO THE USUAL PROCEDURAL
 23 SAFEGUARDS FOR ADMINISTRATIVE OR DISCIPLINARY
 24 CONFINEMENT".

25 THE BASIC REQUIREMENT OF DUE PROCESS IS THE
 26 RIGHT TO NOTICE AND AN OPPORTUNITY TO BE HEARD.
 27 HAMDI V. RUMSFELD, 542 U.S. 507, 533, 124 S.Ct.
 28 2633 (2004); LOGAN V. ZIMMERMAN BRUSH CO., 455 U.S.

422, 437, 102 S.Ct. 1148 (1982) (citation omitted) see:
Goss v. Lopez, 419 U.S. 565, 579, 95 S.Ct. 729
 (1975) and cases cited.

THE JAIL FAILED TO REVIEW PLAINTIFF'S
 CLASSIFICATION STATUS FOR TWO YEARS. WHEN
 THE JAIL DID REVIEW PLAINTIFF'S STATUS ON 7-15-21
 IT STATED CRITERIA FOR RE-CLASSIFICATION TO A
 LOWER ^{status} WAS TO REFRAIN FROM RECEIVING DISCIPLINARY
 INCIDENTS, PARTICIPATE IN PROGRAMS OR CLASSES,
 AND/OR BECOME A FACILITY WORKER. SEE: EXHIBIT
 A. PLAINTIFF HAS ONE DISCIPLINARY INTERACTION
 IN OVER TWO YEARS AND PLAINTIFF CAN NEVER
 MEET THE JAIL'S CRITERIA FOR LOWER CLASSIFICATION
 STATUS BECAUSE NO ONE IN T-SEP IS ALLOWED
 PROGRAMS OR CLASSES NOR GIVEN AN OPPORTUNITY
 AS A FACILITY WORKER.

PLAINTIFF HAS CLEARLY STATED A CLAIM FOR A
 DUE PROCESS ^{violation} AND NEED NOT SHOW ACTUAL INJURY.
 PRECEDENT FROM THE SUPREME COURT ABOUT NOMINAL
 DAMAGES SUPPORTS THE REASONING THAT PUNITIVE
 DAMAGES DO NOT REQUIRE THE SHOWING OF A
 COMPENSABLE INJURY FOR VIOLATION OF CONSTITUTIONAL
 RIGHTS IS "ACTIONABLE FOR NOMINAL DAMAGES
 WITHOUT PROOF OF ACTUAL INJURY". SEE: CAREY V.
PIPHUS, 435 U.S. 247, 266 (1978). ALSO THE ELEVENTH
 CIRCUIT COURT RECENTLY ALIGNED ITSELF WITH THE
 FIRST, SECOND, THIRD, FIFTH, EIGHTH AND NINTH
 CIRCUIT COURTS OF APPEALS IN HOLDING THAT § 1997

1 e(e) permits claims for punitive damages
 2 without a physical injury requirement". See:
 3 HOEVER V. MARKE, 993 F.3d 1353 (11th Cir. 2021)
 4 (en banc).

6 B. SECOND CLAIM

7 PLAINTIFF'S SECOND CLAIM IS A FIRST
 8 AMENDMENT VIOLATION NOT A SIXTH AMEND-
 9 MENT VIOLATION.

10 PLAINTIFF CONTENDS DEFENDANTS HAVE
 11 VIOLATED PLAINTIFF'S FIRST AMENDMENT RIGHTS
 12 UNDER THE UNITED STATES CONSTITUTION FOR
 13 FAILURE TO PROVIDE PLAINTIFF WITH CONFIDENTIAL
 14 ATTORNEY/CLIENT VISITING BOOTH TO CONFER
 15 WITH LEGAL TEAM WITHOUT BEING OVERHEARD
 16 BY DEPUTIES AND OTHER INMATES.

17 THERE IS NO DISPUTE THAT THE LEGAL
 18 BOOTHS IN THE SACRAMENTO COUNTY MAIN JAIL
 19 8 WEST ARE NOT CONFIDENTIAL AS PLAINTIFF
 20 EXPLAINED IN SECOND AMENDED COMPLAINT PAGES
 21 18, 19 AND 20.

22 THIS IS A SERIOUS U.S. CONSTITUTIONAL
 23 VIOLATION OF PLAINTIFF'S FIRST AMENDMENT
 24 RIGHT TO MEET AND CONSULT WITH COUNSEL
 25 CONFIDENTIALLY. SEE: STURM V. CLARK, 835 F.2d
 26 1009, 1015 AND N.3 (3rd Cir. 1987) (Holding Special
 27 RESTRICTIONS ON ATTORNEY/PRISONER CONSULTATION
 28 STATED A VIOLATION OF HER FIRST AMENDMENT

RIGHTS; WILLIAM V. PRICE, 25 F. Supp. 2d 623, 629-30 (WD 1998) (HOLDING THAT LACK OF CONFIDENTIALITY IN ATTORNEY/CLIENT CONSULTATION VIOLATED THE FIRST AMENDMENT AND "PLAINTIFF CONTENDS EVEN MORE SO WITH HIM FACING POTENTIAL DEATH PENALTY CHARGES."

FURTHERMORE PLAINTIFF IS "NOT OBLIGATED TO SHOW ACTUAL INJURY." "THE CHALLENGED ACTIONS HAVE CAUSED ACTUAL INJURY BY IMPEDING THE LITIGATION OF A NON-FRIVOLOUS CLAIM". SEE: AL-AMIN V. SMITH, 511 F.3d 1317, 1334 (11TH CIR. 2008) CERT. DENIED 129 S.Ct. 104 (2008); JONES V BROWN, 461 F.3d 353, 359-60 (3RD CIR. 2006) CERT. DENIED 549 U.S. 1286 (2007).

C. THIRD CLAIM

PLAINTIFF CONTENDS DEFENDANTS HAVE VIOLATED PLAINTIFF'S FIRST AMENDMENT RIGHTS UNDER THE UNITED STATES CONSTITUTION WITH RETALIATION AFTER ALTERCATION WITH DEPUTIES. THE CHRONOLOGICAL ORDER OF EVENTS AND DEPUTIES OWN STATEMENTS CLEARLY DEMONSTRATE RETALIATION.

1.) PLAINTIFF ARRIVED AT THE SACRAMENTO COUNTY MAIN JAIL ON 7-1-19.

2.) PLAINTIFF REMAINED IN THE SAME CELL FOR OVER 10 MONTHS.

3.) ON 7-11-20 PLAINTIFF WAS INVOLVED

1 IN ALTERCATION WITH 3 DEPUTIES.

2 4.) WITHIN A DAY OR TWO AFTER ALTERCATION
3 SEVERAL DEPUTIES STATED TO PLAINTIFF THEY
4 WERE TOLD BY THEIR HIGHER-UPS TO MAKE PLAINTIFF
5 UNCOMFORTABLE.

6 5.) DEPUTIES BEGAN MOVING PLAINTIFF CELL
7 TO CELL ON A WEEKLY BASIS AFTER ROUSING
8 PLAINTIFF IN THE MIDDLE OF THE NIGHT, HANDCUFFED,
9 TAKEN TO INTAKE FOR FULL BODY SCAN, AND
10 PLACED IN A DIFFERENT UNSANITARY CELL.

11 PLAINTIFF CONTENDS THE CHRONOLOGICAL
12 ORDER OF EVENTS PRINTS A CLEAR PICTURE OF
13 RETALIATION SINCE MOVING PLAINTIFF EVERY
14 FEW WEEKS TO THE EXACT SAME CELLS HAS
15 ABSOLUTELY NO LEGITIMATE PENOLOGICAL GOAL.
16 SEE: BARNETT V. CENTONI, 31 F.3d 813, 816
17 (9th CIR. 1994) "A PRISONER SUING PRISON
18 OFFICIALS UNDER SECTION 42 U.S.C. § 1983 FOR
19 RETALIATION MUST ALLEGE THAT HE WAS RETALIATED
20 AGAINST AND THE RETALIATORY ACTION DOES NOT
21 ADVANCE LEGITIMATE PENOLOGICAL GOALS".

22 DEPUTIES STATED TO PLAINTIFF THAT THEIR
23 HIGHER-UPS TOLD THEM TO MAKE PLAINTIFF
24 UNCOMFORTABLE NEEDS TO BE DEVELOPED THROUGH
25 THE COMPLAINT PROCESS SINCE STATEMENTS BY
26 STAFF INDICATE THEIR MOTIVE FOR TAKING
27 ADVERSE ACTION. SEE: BRUCE V. YLST, 351 F.3d
28 1283, 1288-89 (9th CIR. 2003) (CITING STATEMENT BY

PERSON WHO VALIDATED PLAINTIFF AS A GANG MEMBER THAT PLAINTIFF HAD "PISSSED OFF HIGHER - UPS").

"THE PRISON LITIGATION REFORM ACT DOES NOT BAR RECOVERING PUNITIVE OR NOMINAL DAMAGES IN A FIRST AMENDMENT RETALIATION CLAIM". SEE: ALLAN V. AL-HAFEZ, 226 F.3d 247, 251-52 (3rd Cir. 2000).

D. FOURTH CLAIM

PLAINTIFF ACCEPTS MAGISTRATE JUDGE'S FINDINGS AND RECOMMENDATIONS TO PLAINTIFF'S FOURTH CLAIM.

CONCLUSION

FOR GOOD CAUSE SHOWING PLAINTIFF RESPECTFULLY REQUESTS THE DISTRICT COURT JUDGE TO REJECT THE MAGISTRATE JUDGE'S FINDINGS, AND RECOMMENDATIONS TO PLAINTIFF'S FIRST, SECOND, AND THIRD CLAIMS AND ALLOW PLAINTIFF TO PROCEED ON THOSE CLAIMS WITH PLAINTIFF'S FIFTH CLAIM,

Dated: August 21, 2021 Respectfully Submitted

Ronald Yandell

Ronald Yandell

8w 417

INMATE CLASSIFICATION NOTICE		
Date: 7/15/21	Name: RONALD YANDELL	X-Ref: 5045824
Facility: Main Jail	Booking Number: 10155539	Booking Date: 7/1/19
Current Classification: Administrative Segregation 1		Housing Flag: ADS1
Previous Classification: ADS1		Previous Housing Flag: ADS1
Classification Officer: Sgt Rolland #57		Next Reclassification Date: 7/30/21

Classification Reason:

The Classification Office has placed you in the following classification:
Administrative Segregation 1 due to high notoriety and affiliations.

Criteria for Re-Classification:

In order for your classification level to be lowered, or maintained if you are minimum security, you must refrain from receiving disciplinary incidents, participate in programs or classes, and/or become a facility worker.

Your classification level may be raised if assaultive charges are added, or you receive any disciplinary incidents.

Appeal Process:

Any inmate who so desires, may appeal their classification through the grievance appeal process.

1 RONALD YANDELL/5045824
Your Name

2 651 "I" STREET
Address

3 SACRAMENTO, CA. 95814
City, State, Zip Code

4 Telephone Number

6 IN THE UNITED STATES DISTRICT COURT

7 EASTERN DISTRICT OF CALIFORNIA

8 Ronald Yandell
Your Name,

9 Plaintiff,

10 vs.
11 Donald Washington
Defendant(s), et al

No. 2:21-CV-00469-JAM-AC

12 Defendant(s).

PROOF OF SERVICE

13 _____
14 I, the undersigned, hereby certify that I am over the age of eighteen years and
15 on August 21, 2021, I served a copy of

16 Objections to Findings and Recommendations

17 by placing a copy in a postage paid envelope addressed to the person hereinafter listed

18 by depositing said envelope in the United States Mail:

United States District Court

501 "I" Street, Suite 4-200

SACRAMENTO, CA. 95814 - 2322

20 (List All Defendants and Addresses Served)

22 I declare under penalty of perjury that the foregoing is true and correct.

24 Ronald Yandell
25 (Signed)